

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

MARVIN BURT

PLAINTIFF

v.

No. 3:22cv97-MPM-RP

NAVISTAR, INC. et al

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION OF DISMISSAL

On October 6, 2022, Magistrate Judge Percy entered an order granting counsel for Plaintiff Marvin Burt leave to withdraw as counsel of record in this case. [Docket entry 21].

Judge Percy's order stated in relevant part that:

The plaintiff has until November 7, 2022, to retain other counsel, or to notify the court that he intends to proceed without an attorney, or to notify the court that he intends not to prosecute this case further. . . . The plaintiff is warned that failure to comply with Orders of this court may result in sanctions, up to and including dismissal of the case, as failure to comply with this Order or other Orders may lead to a presumption that he has chosen not to proceed with this case.

[*Id.* at 1.]

Plaintiff failed to respond to this order, and accordingly, on November 10, 2022, Judge Percy entered a Report and Recommendation ("R&R") in which he recommended that this action be dismissed without prejudice. In so doing, Judge Percy wrote that:

The parties are referred to FED. R. CIV. P. 72(b) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within fourteen (14) days of this date and "a party's failure to file written objections to the proposed findings, conclusions and recommendation in a magistrate judge's report and recommendation within [14] days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court" *Douglass v. United States Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc) (citations omitted).

[Docket entry 22].

Plaintiff has, once again, failed to respond to Judge Percy's order, and this court accordingly concludes that the R&R recommending that this action be dismissed be adopted as the ruling of this court.

It is therefore ordered that this case is dismissed without prejudice.

A separate judgment will be entered this date, pursuant to Fed. R. Civ. P. 58.

This 1st day of December, 2022.

/s/Michael P. Mills
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI